

§ 7.704-1

26 CFR Ch. I (4-1-04 Edition)

partner. For taxable year 1975, JK has no income or loss. Although J's basis in the activity is \$25,000 (\$10,000+\$18,000-\$3,000) J's amount at risk on the effective date is \$7,000 determined as follows:

Initial amount at risk	\$10,000
Plus: Items which increased basis other than amounts described in sec. 465(b) (3) or (4)	0
Total	10,000
Less: Distribution	3,000
J's amount at risk on effective date	7,000

Example (2). Assume the same facts as in Example (1) except that JK has a loss (as described in section 465(d) for 1975 of which J's share is \$12,000. Although J's basis in the activity is \$13,000 (\$10,000+\$18,000-\$3,000+\$12,000)) J's amount at risk on the effective date is \$7,000 determined as follows:

Initial amount at risk	\$10,000
Plus: Items which increased basis other than amounts described in sec. 465(b) (3) or (4)	0
Total	10,000
Less: Distribution	3,000
Portion of loss (\$12,000) in excess of portion of basis not at risk (\$18,000)	0
Total	3,000
J's amount at risk on effective date	7,000

Example (3). Assume the same facts as in Example (1) except that JK has a loss (as described in section 465(d) for 1975, and J's share is \$23,000. J's basis in the activity is \$2,000 (\$10,000+\$18,000-\$3,000+\$23,000)). The amount at risk on the effective date is determined as follows:

Initial amount at risk	\$10,000
Plus: Items which increased basis other than amounts described in sec. 465(b) (3) or (4)	0
Total	10,000
Less: Distribution	3,000
Portion of loss (\$23,000) in excess of portion of basis not at risk (\$18,000)	5,000
Total	8,000
J's amount at risk on the effective date	2,000

[T.D. 7504, 42 FR 42198, Aug. 22, 1977]

§ 7.704-1 Partner's distributive share.

(a)-(c) [Reserved]

(d) *Limitation on allowance of losses.*

(1)-(2) [Reserved]

(3)(i) Section 213(e) of the Tax Reform Act of 1976 amended section 704(d) of the Internal Revenue Code relating to the deductions by partners of losses incurred by a partnership. A partner is entitled to deduct the share of partnership loss to the extent of the adjusted basis of the partner's interest in the

partnership. As amended, section 704(d) provides, in general, that the adjusted basis of a partner's interest in the partnership for the purpose of deducting partnership losses shall not include any portion of a partnership liability for which the partner has no personal liability. This restriction, however, does not apply to any activity to the extent that section 465 of the Code applies nor to any partnership whose principal activity is investing in real property, other than mineral property. Section 465 does not apply to corporations other than a subchapter S corporation or a personal holding company.

(ii) The restrictions in the amendment to section 704(d) will not apply to any corporate partner with respect to liabilities incurred in an activity described in section 465(c)(1). In all other respects the restrictions in the amendment will apply to all corporate partners unless the partnership's principal activity is investment in real property, other than mineral property.

[T.D. 7445, 41 FR 55344, Dec. 20, 1976]

§ 7.936-1 Qualified possession source investment income.

For purposes of this section, interest earned after September 30, 1976 (less applicable deductions), by a domestic corporation, engaged in the active conduct of a trade or business in Puerto Rico, which elects the application of section 936 with respect to deposits with certain Puerto Rican financial institutions will be treated as qualified possession source investment income within the meaning of section 936(d)(2) if (1) the interest qualifies for exemption from Puerto Rican income tax under regulations issued by the Secretary of the Treasury of Puerto Rico, as in effect on September 28, 1976, under the authority of section 2(j) of the Puerto Rico Industrial Incentive Act of 1963, as amended, (2) the interest is from sources within Puerto Rico (within the meaning of section 936(d)(2)(A)), and (3) the funds with respect to which the interest is earned are derived from the active conduct of a trade or business in Puerto Rico or from investment of funds so derived.

[T.D. 7452, 41 FR 56794, Dec. 30, 1976]